

UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF NEW YORK

DEVENDRA SHUKLA,

Plaintiff,

- *against* -

SAT PRAKASH SHARMA, individually  
and as Director of VISHVA SEVA  
ASHRAM OF NEW YORK, GEETA  
SHARMA, individually and as Director of  
VISHVA SEVA ASHRAM OF NEW  
YORK, VISHVA SEVA ASHRAM OF  
NEW YORK D/B/A SARVA DEV  
MANDIR,

Defendants.

07-CV-2972 (CBA) (CLP)

**AMENDED NOTICE OF MOTIONS  
(I) FOR A FINDING OF  
SPOILIATION AND FOR ADVERSE  
INFERENCE AND  
(II) TO DISMISS PURSUANT TO  
FED. R. CIV. P. 9(b), 12(b)(6),  
37(b)(2)(A)  
(i), (ii), (v) and (vi) and 56**

**To:** Sanjay Chaubey, Esq.  
Law Offices of Sanjay Chaubey  
Attorneys for Plaintiff  
Empire State Building  
350 5<sup>th</sup> Avenue, Suite 5013  
New York, New York 10018

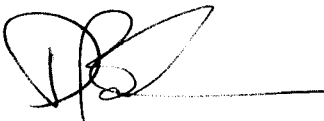
**PLEASE TAKE NOTICE** that, upon the Pleadings and upon all prior proceedings herein, Defendants Sat Prakash Sharma, individually and as Director of Vishva Seva Ashram of New York, Geeta Sharma, individually and as Director of Vishva Seva Ashram of New York, Vishva Seva Ashram Of New York D/B/A Sarva Dev Mandir, (the “Defendants”) move pursuant to Rules 9(b), 12 (b)(6), 37(b)(2)(A) (i), (ii), (v) and (vi) and 56 of the Fed. R. of Civ. P. for orders for (i) a finding of spoliation and for an adverse inference, and (ii) dismissing all causes of action against the Defendants in the Complaint based on spoliation of material evidence, and upon a pattern of failures

and refusals to comply with discovery orders and other failures in discovery, for failure to state a claim upon which relief can be granted, and, that the pleadings and depositions on file, together with the affidavits submitted, show that there is no genuine issue as to any material fact and the Defendants are entitled to Judgment as a matter of law. In support of the Motion, Defendants submit legal arguments set forth in their supporting memorandum of law.

**PLEASE TAKE FURTHER NOTICE** that opposing affidavits and memoranda of law, if any, must be served upon the undersigned on or before March 2, 2009 pursuant to the direction of the Court and must be filed with the Court in accordance with the applicable rules. Unless such affidavits and memoranda of law are timely served and filed, the relief sought herein may be granted. Pursuant to the prior directions of the Court, oral argument will be scheduled for such date and time as the Court may direct.

Dated: New York, New York  
January 28, 2009

**LAW OFFICES OF DAN BRECHER**  
Counsel for Defendants

By:   
\_\_\_\_\_  
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